

## **REMARKS**

The applicants have carefully considered the Office action dated November 28, 2007 and the references it cites. By way of this Response, claims 15, 40, 48 and 50 have been amended. In view of the following, it is respectfully submitted that all pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

### **Claim Rejections under 35 U.S.C. § 103**

Claims 3, 6-9, 11-16, 34-36, 38, 40, 41, 43, 44, 46, and 48-51 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ganzinotti (U.S. Patent 3,341,974) in view of Van Dyk (U.S. Patent 4,371,175), wherein claims 15, 40, 48, and 50 are independent claims. Applicants respectfully traverse these rejections.

The specific recitations of independent claims 15, 40, 48, and 50 are set forth in the above listing of the claims, have been reiterated in previous amendments and Office actions, and need not be duplicated here. The applicants point out that claim 15 relates to a door exposed to an atmosphere of air including thermal insulation, at least a portion of which is disposed inside an elongate air passage adjacent an inner surface of an inflatable seal. Additionally, claims 40 and 48 relate to a door including thermal insulation, at least a portion of which is disposed inside an elongate air passage adjacent an inner surface of a pliable seal. Further, claim 50 relates to a door exposed to an atmosphere of air including thermal insulation overlaying a portion of an inner surface of a pliable seal, wherein the thermal insulation does not entirely cover an inner surface.

The Office action of November 28, 2007 alleges that Ganzinotti discloses all of the claimed elements but concedes that Ganzinotti fails to describe a seal with thermal

insulation (see Office action of November 28, 2007, page 2). The Office action further suggests that Van Dyk “discloses an inflatable seal having thermal insulation (the inner layer)” and that it would have been obvious to “provide the seal of Ganzinotti (‘974) with the thermal insulation as taught by Van Dyk (4,371,175) since thermal insulation provides less heat transfer and thereby increases the efficiency of the system” (see Office action of November 28, 2007, pages 2-3, emphasis added). While increasing system efficiency, by providing less heat transfer, may be typically a reason or motivation to combine references, a detailed review of the references shows that the proposed motivation contradicts the teachings of the references.

First, Ganzinotti states that “the sealing joint or member, which is not made of a thermally insulating substance is cooled so effectively that its parts in contact with the external atmosphere form a cold wall and become covered with frost” (Col. 1, ll. 22-26). Second, Ganzinotti attempts to solve the problems associated with frost formation by causing a sufficiently hot fluid to reheat the joint, which is not made of a thermally insulating substance, and to prevent the deposits of frost on its surface and on the areas adjacent the door and the door frame (see generally Col. 1, ll. 22-26; 46-49). Thus, Ganzinotti teaches that more heat transfer from the inflatable seal to the surrounding areas of the door and the door frame is desirable, not less heat transfer. Ganzinotti actually teaches that the solution to frost formation is an inefficient system – one that promotes heat transfer from the heated fluid inside the seal to the surrounding structure of the refrigerator. Ganzinotti does not disclose or suggest, but instead teaches away from, a door exposed to an atmosphere of air including thermal insulation, at least a portion of which is disposed inside an elongate air passage adjacent an inner surface of an inflatable

seal. Additionally, Ganzinotti does not disclose or suggest, but instead teaches away from, a door including thermal insulation, at least a portion of which is disposed inside an elongate air passage adjacent an inner surface of a pliable seal. Further, Ganzinotti does not disclose or suggest, but instead teaches away from, a door exposed to an atmosphere of air including thermal insulation overlaying a portion of an inner surface of a pliable seal, wherein the thermal insulation does not entirely cover an inner surface.

An example falling within the scope of the claims and found in the specification not only attempts to minimize, or prevent, the formation of frost around the exterior of the inflatable seal but also includes thermal insulation inside the seal to “help minimize or eliminate frost accumulation inside of seal 50” (pg. 5, ll. 20-21). Furthermore, “the presence of insulation 55 may also be advantageous in the case of a power loss to the door, as the relative rigidity of insulation 55 may serve itself as a seal when the seal 50 is not inflated, or the rigidity of the insulation 55 may help maintain seal 50 in an expanded condition to allow it to continue providing a sealing function” (pg. 5, ll. 25-29).

Van Dyk teaches an elastomeric tube with a loosely fitting flexible conductive sheath (i.e., the shielding medium 26) that is to provide excellent electrical shielding and is to conform to the shape of a gap to provide an electrically conductive seal (see generally Van Dyk Col. 1, L 8-10; Col. 2, L 53 – Col. 3, 12). The conductive sheath consists of a high conductivity metal braid or mesh made of brass, copper, aluminum or other metals (Van Dyk Col 4, L23-24 and L 56-57). High conductivity metals are excellent conductors of heat as well as electricity. If the elastomeric tube (i.e., the nonconducting core) was made of an air permeable material, such as a metal mesh or braid, the elastomeric tube would not be inflatable to force the conductive sheath into

intimate mechanical and electrical contact with a [door] frame 14 and, therefore, the purpose of the elastometric tube is to prevent leakage of the compressed fluid to the surroundings. Van Dyke does not disclose or suggest, but instead teaches away from, a door exposed to an atmosphere of air including thermal insulation, at least a portion of which is disposed inside an elongate air passage adjacent an inner surface of an inflatable seal. Additionally, Van Dyke does not disclose or suggest, but instead teaches away from, a door including thermal insulation, at least a portion of which is disposed inside an elongate air passage adjacent an inner surface of a pliable seal. Further, Van Dyke does not disclose or suggest, but instead teaches away from, a door exposed to an atmosphere of air including thermal insulation overlaying a portion of an inner surface of a pliable seal, wherein the thermal insulation does not entirely cover an inner surface.

To suggest that one of ordinary skill in the art would add the alleged thermal insulation of Van Dyke to Ganzinotti's inflatable seal mandates that a person of ordinary skill must ignore the opposite teachings of Ganzinotti and Van Dyke that the sealing joint or member not be made of a thermally insulating substance and that the sealing joint include metal mesh to ensure electrical shielding and heat conductivity. "When the prior art teaches away from combining certain known elements, discovery of successful means of combining them is more likely to be nonobvious." *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1395 (2007).

The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007) did not suggest that an Examiner may ignore, or contradict, the teachings of the prior art when stating a case for obviousness. In determining obviousness, the proper analysis is whether the claimed invention would have been obvious to one of ordinary

skill in the art after consideration of all the facts (35 U.S.C. 103(a)). Perhaps the most compelling of those facts are the teachings of the prior art at issue. When those teachings lead away from the proposed combination, then a prima facie case of obviousness has not been established. For at least this reason, it is respectfully submitted that independent claims 15, 40, 48, and 50 and all claims dependent therefrom are in a condition for allowance.

Claims 2, 4, 5, 10, 37, 39, 45, and 47 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ganzinotti in view of Van Dyk and further in view of Knap (U.S. Patent 4,150,509), all of the rejected claims being dependent claims. The respective independent claims are allowable as explained above and, therefore, the dependent claims are allowable.

### **Conclusion**

Claims 15, 30, 48 and 50 have been amended to clarify their recitations. This response could not have been submitted earlier. In view of the teachings of the references, applicants could not have foreseen the Examiner's interpretation of the references. The amendments do not raise new issues and do not require a further search. This response places the claims in form for allowance which is respectfully requested.

If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

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